## UNITED STATES OF AMERICA

## BEFORE THE NATIONAL LABOR RELATIONS BOARD

KING SOOPERS

**Employer** 

and Case 27-RC-104452

UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL NO. 7
Petitioner

## **ORDER**

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review. The Employer's request for a stay of election is denied as moot. The Employer's request for oral argument is also denied.

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

Dated, Washington, D.C., September 13, 2013.

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<sup>&</sup>lt;sup>1</sup> In denying review, we agree with the Regional Director that the Employer has failed to rebut the presumption that the petitioned-for single-facility unit of retail and coffee shop employees at the Lafayette, Colorado store is appropriate. We do not reach the question of whether the Board's test in *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, -- F.3d – (6th Cir. Aug. 15, 2013), applies under the circumstances of this case.

Member Miscimarra joins in denying review of the Regional Director's finding that the Employer has not rebutted the single-facility presumption, without reaching any question regarding *Specialty Healthcare*, supra, but he would grant review of the Regional Director's inclusion of the coffee shop employees in the unit.